

SHB 1516 - S COMM AMD

By Committee on Transportation

ADOPTED AND ENGROSSED 4/11/11

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the Washington  
4 state ferry system has been plagued with declining ridership, increased  
5 operating costs, and poor on-time performance during peak periods. The  
6 legislature intends to give the Washington state ferry system  
7 management the tools to change that and, furthermore, intends to hold  
8 management accountable to do so.

9 **Sec. 2.** RCW 47.64.120 and 2010 c 283 s 10 are each amended to read  
10 as follows:

11 (1) Except as otherwise provided in this chapter, the employer and  
12 ferry system employee organizations, through their collective  
13 bargaining representatives, shall meet at reasonable times to negotiate  
14 in good faith with respect to wages, hours, (~~working conditions,~~) and  
15 insurance, and other matters mutually agreed upon. Employer funded  
16 retirement benefits shall be provided under the public employees'  
17 retirement system under chapter 41.40 RCW and shall not be included in  
18 the scope of collective bargaining. Except as provided under RCW  
19 47.64.270, the employer is not required to bargain over health care  
20 benefits. Any retirement system or retirement benefits shall not be  
21 subject to collective bargaining.

22 (2) Upon ratification of bargaining agreements, ferry employees are  
23 entitled to an amount equivalent to the interest earned on retroactive  
24 compensation increases. For purposes of this section, the interest  
25 earned on retroactive compensation increases is the same monthly rate  
26 of interest that was earned on the amount of the compensation increases  
27 while held in the state treasury. The interest will be computed for  
28 each employee until the date the retroactive compensation is paid, and  
29 must be allocated in accordance with appropriation authority. The

1 interest earned on retroactive compensation is not considered part of  
2 the ongoing compensation obligation of the state and is not  
3 compensation earnable for the purposes of chapter 41.40 RCW.  
4 Negotiations shall also include grievance procedures for resolving any  
5 questions arising under the agreement, which shall be embodied in a  
6 written agreement and signed by the parties.

7 (3) The employer shall make decisions regarding working conditions  
8 to best suit the operational needs of the state and may not bargain its  
9 own decision or the effects of a decision for any working condition  
10 other than shift bidding, scheduling leave time, and grievance  
11 procedures, provided that the grievance procedures do not expand the  
12 scope of grievances beyond the interpretation and application of terms  
13 permissible under this chapter. The employer shall not bargain over  
14 rights of management which, in addition to all powers, duties, and  
15 rights established by constitutional provision or statute, must  
16 include, but not be limited to, the following:

17 (a) Assigning employees to work stations, vessels, or terminals;

18 (b) Directing promotions;

19 (c) Directing who will be laid off in the event of a layoff action,  
20 bumping rights, or layoff options;

21 (d) Directing staffing levels;

22 (e) Providing for training; and

23 (f) Directing the use of part-time shifts.

24 (4) A collective bargaining agreement may not contain any provision  
25 that extends the term of an existing collective bargaining agreement or  
26 applicability of items incompatible with this section in an existing  
27 collective bargaining agreement.

28 (5) Except as otherwise provided in this chapter, if a conflict  
29 exists between an executive order, administrative rule, or agency  
30 policy relating to wages((7)) ~~or hours((7, and terms and conditions of~~  
31 employment)) and a collective bargaining agreement negotiated under  
32 this chapter, the collective bargaining agreement shall prevail. A  
33 provision of a collective bargaining agreement that conflicts with the  
34 terms of a statute is invalid and unenforceable.

35 NEW SECTION. Sec. 3. A new section is added to chapter 47.64 RCW  
36 to read as follows:

37 (1) Effective July 1, 2013, all captains of Washington state ferry

1 vessels are managers as defined in RCW 41.06.022 and therefore are  
2 subject to the rules adopted by the director of the department of  
3 personnel pursuant to RCW 41.06.500. Salary increases for captains  
4 must be directly related to the performance of their responsibilities.

5 (2) The captain, also known as the master of a vessel or the  
6 commanding officer, is the ultimate authority on and has responsibility  
7 for the entire vessel. The captain's responsibilities include, but are  
8 not limited to:

9 (a) Ensuring the safe navigation of the vessel and its crew and  
10 passengers;

11 (b) Following all applicable federal, state, and agency policies  
12 and regulations;

13 (c) Supervising crew in performance, operations, training,  
14 security, and environmental protection; and

15 (d) Overseeing all aspects of vessel operations including, but not  
16 limited to:

17 (i) Vessel arrivals and departures;

18 (ii) Schedule adherence;

19 (iii) Customer service;

20 (iv) Cost containment; and

21 (v) Fuel efficiency.

22 (3) Effective January 1, 2014, all chief engineers and terminal  
23 supervisors of Washington state ferry vessels are managers as defined  
24 in RCW 41.06.022 and therefore are subject to the rules adopted by the  
25 director of the department of personnel pursuant to RCW 41.06.500.  
26 Salary increases for chief engineers and terminal supervisors must be  
27 directly related to the performance of their responsibilities.

28 (4) The chief engineer, also known as a staff engineer, is the  
29 engineering department head and reports directly to the captain. The  
30 chief engineer's duties include, but are not limited to:

31 (a) Overseeing all aspects of engineering propulsion, electrical,  
32 and machinery components;

33 (b) Ensuring safe and efficient engineering plant operations;

34 (c) Advising the captain of factors affecting the vessel's  
35 operation from an engineering perspective;

36 (d) Supervising the conduct of engineering watchstanders and  
37 directing work and maintenance routines;

1 (e) Following federal, state, and agency policies and regulations;

2 and

3 (f) Overseeing all fueling to ensure efficient and environmentally  
4 safe operations.

5 (5) The terminal supervisor is the ultimate authority and has  
6 responsibility for the entire operations at that ferry terminal. The  
7 terminal supervisor's duties include, but are not limited to:

8 (a) Overseeing all aspects of dock-side terminal operations;

9 (b) Coordinating with the captain in arrival and departure  
10 procedures;

11 (c) Supervising the conduct of ticket sellers and traffic and  
12 loading attendants and directing selling, loading, and traffic work and  
13 routines; and

14 (d) Following federal, state, and agency policies and regulations.

15 (6) With each biennial budget submittal, the department shall  
16 include recommendations for distributing any appropriations the  
17 legislature may provide for incentive pay for vessel captains, chief  
18 engineers, or terminal supervisors.

19 (7) Any employee who is a captain, chief engineer, or terminal  
20 supervisor may not belong to a collective bargaining unit.

21 (8) A collective bargaining agreement may not contain any provision  
22 that extends the term of an existing collective bargaining agreement or  
23 applicability of items incompatible with this section in an existing  
24 collective bargaining agreement.

25 **Sec. 4.** RCW 41.06.022 and 2002 c 354 s 207 are each amended to  
26 read as follows:

27 For purposes of this chapter, "manager" means any employee who:

28 (1) Formulates statewide policy or directs the work of an agency or  
29 agency subdivision;

30 (2) Is responsible to administer one or more statewide policies or  
31 programs of an agency or agency subdivision;

32 (3) Manages, administers, and controls a local branch office of an  
33 agency or agency subdivision, including the physical, financial, or  
34 personnel resources;

35 (4) Has substantial responsibility in personnel administration,  
36 legislative relations, public information, or the preparation and  
37 administration of budgets; ((~~or~~))

1 (5) Functionally is above the first level of supervision and  
2 exercises authority that is not merely routine or clerical in nature  
3 and requires the consistent use of independent judgment; or

4 (6) Is a captain or chief engineer of a Washington state ferry  
5 vessel, or a terminal supervisor of a Washington state ferry terminal.

6 No employee who is a member of the Washington management service  
7 may be included in a collective bargaining unit established under RCW  
8 41.80.001 and 41.80.010 through 41.80.130 and chapter 47.64 RCW.

9 NEW SECTION. Sec. 5. A new section is added to chapter 47.64 RCW  
10 to read as follows:

11 Washington state ferry system management must meet with its union  
12 employees twice a year and encourage an open and direct exchange of  
13 ideas and concerns between line employees and management.

14 NEW SECTION. Sec. 6. A new section is added to chapter 47.64 RCW  
15 to read as follows:

16 (1) Using state fiscal year 2010 as a basis, Washington state ferry  
17 system management shall develop targets for the performance measures  
18 listed under this subsection. These targets must be developed in  
19 collaboration with the office of financial management and presented to  
20 the transportation committees of the legislature by September 30, 2011,  
21 along with an implementation plan for achieving these targets by June  
22 30, 2013:

23 (a) Number of riders per service hour;

24 (b) Terminal and vessel operating costs, not including fuel, per  
25 service hour;

26 (c) Fuel consumption per service hour; and

27 (d) Peak-direction, peak-time, on-time performance by route for all  
28 runs except those delayed or canceled due to tidal conditions. On-time  
29 is defined as within ten minutes of the scheduled time. Peak-time for  
30 the Mukilteo/Clinton, Edmonds/Kingston, Seattle/Bainbridge,  
31 Seattle/Bremerton, Fauntleroy/Vashon/Southworth, and Point  
32 Defiance/Tahlequah ferry routes means weekdays from 5:00 a.m. to 9:00  
33 a.m. and 3:00 p.m. to 7:00 p.m. Peak-time for the Coupeville  
34 (Keystone)/Port Townsend and Anacortes/San Juan Island ferry routes  
35 means Fridays from 3:00 p.m. to closing, Saturdays all day, Sundays all  
36 day, holidays all day, and Mondays from opening to 12:00 p.m.

1 (2) The department shall, on a quarterly basis, report Washington  
2 state ferry system management's performance as it relates to the  
3 performance measures in subsection (1) of this section (a) to the  
4 transportation committees of the legislature, (b) on its vessels, (c)  
5 at all ferry terminals, and (d) on the department's web site.

6 (3) The joint legislative audit and review committee shall work  
7 with the department in determining baseline data for the performance  
8 measures in subsection (1) of this section and shall determine whether  
9 Washington state ferry system management has met the performance  
10 measures in subsection (1) of this section and report its findings to  
11 the transportation committees of the legislature by December 31, 2013.

12 (4) If the joint legislative audit and review committee determines  
13 that Washington state ferry system management has not met the targets  
14 developed in subsection (1) of this section, the governor, with the  
15 consensus of the chairs and ranking minorities of the transportation  
16 committees of the legislature, shall appoint a governor's management  
17 representative who, within sixty days, shall develop and submit a  
18 corrective action plan to achieve the targets in this section within  
19 the following twelve months. The plan must be submitted to the  
20 governor and the transportation committees of the legislature.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 47.64 RCW  
22 to read as follows:

23 The report required in RCW 47.01.071(5) and 47.04.280 must include  
24 the performance measures in section 6(1) of this act.

25 **Sec. 8.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read  
26 as follows:

27 As used in this chapter, unless the context otherwise requires, the  
28 definitions in this section shall apply.

29 (1) "Collective bargaining representative" means the persons  
30 designated by the governor and employee organizations to be the  
31 exclusive representatives during collective bargaining negotiations.

32 (2) "Commission" means the (~~marine employees~~) public employment  
33 relations commission created in RCW (~~47.64.280~~) 41.58.010.

34 (3) "Department of transportation" means the department as defined  
35 in RCW 47.01.021.

36 (4) "Employer" means the state of Washington.

1 (5) "Ferry employee" means any employee of the marine  
2 transportation division of the department of transportation who is a  
3 member of a collective bargaining unit represented by a ferry employee  
4 organization and does not include an exempt employee pursuant to RCW  
5 41.06.079.

6 (6) "Ferry employee organization" means any labor organization  
7 recognized to represent a collective bargaining unit of ferry  
8 employees.

9 (7) "Lockout" means the refusal of the employer to furnish work to  
10 ferry employees in an effort to get ferry employee organizations to  
11 make concessions during collective bargaining, grievance, or other  
12 labor relation negotiations. Curtailment of employment of ferry  
13 employees due to lack of work resulting from a strike or work stoppage  
14 shall not be considered a lockout.

15 (8) "Office of financial management" means the office as created in  
16 RCW 43.41.050.

17 (9) "Strike or work stoppage" means a ferry employee's refusal, in  
18 concerted action with others, to report to duty, or his or her willful  
19 absence from his or her position, or his or her stoppage or slowdown of  
20 work, or his or her abstinence in whole or in part from the full,  
21 faithful, and proper performance of the duties of employment, for the  
22 purpose of inducing, influencing, or coercing a change in conditions,  
23 compensation, rights, privileges, or obligations of his, her, or any  
24 other ferry employee's employment. A refusal, in good faith, to work  
25 under conditions which pose an endangerment to the health and safety of  
26 ferry employees or the public, as determined by the master of the  
27 vessel, shall not be considered a strike for the purposes of this  
28 chapter.

29 **Sec. 9.** RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are  
30 each reenacted and amended to read as follows:

31 (1) Except as provided in RCW 47.60.656 and subsections (2) and (4)  
32 of this section, or as provided in RCW 36.54.130 and subsection (3) of  
33 this section, if any party assumes the operation and maintenance of any  
34 ferry or ferry system by rent, lease, or charter from the department of  
35 transportation, such party shall assume and be bound by all the  
36 provisions herein and any agreement or contract for such operation of  
37 any ferry or ferry system entered into by the department shall provide

1 that the wages to be paid, hours of employment, working conditions, and  
2 seniority rights of employees will be established by the ((~~marine~~  
3 ~~employees~~)) commission in accordance with the terms and provisions of  
4 this chapter and it shall further provide that all labor disputes shall  
5 be adjudicated in accordance with chapter 47.64 RCW.

6 (2) If a public transportation benefit area meeting the  
7 requirements of RCW 36.57A.200 has voter approval to operate passenger-  
8 only ferry service, it may enter into an agreement with Washington  
9 State Ferries to rent, lease, or purchase passenger-only vessels,  
10 related equipment, or terminal space for purposes of loading and  
11 unloading the passenger-only ferry. Charges for the vessels,  
12 equipment, and space must be fair market value taking into account the  
13 public benefit derived from the ferry service. A benefit area or  
14 subcontractor of that benefit area that qualifies under this subsection  
15 is not subject to the restrictions of subsection (1) of this section,  
16 but is subject to:

17 (a) The terms of those collective bargaining agreements that it or  
18 its subcontractors negotiate with the exclusive bargaining  
19 representatives of its or its subcontractors' employees under chapter  
20 41.56 RCW or the National Labor Relations Act, as applicable;

21 (b) Unless otherwise prohibited by federal or state law, a  
22 requirement that the benefit area and any contract with its  
23 subcontractors, give preferential hiring to former employees of the  
24 department of transportation who separated from employment with the  
25 department because of termination of the ferry service by the state of  
26 Washington; and

27 (c) Unless otherwise prohibited by federal or state law, a  
28 requirement that the benefit area and any contract with its  
29 subcontractors, on any questions concerning representation of employees  
30 for collective bargaining purposes, may be determined by conducting a  
31 cross-check comparing an employee organization's membership records or  
32 bargaining authorization cards against the employment records of the  
33 employer.

34 (3) If a ferry district is formed under RCW 36.54.110 to operate  
35 passenger-only ferry service, it may enter into an agreement with  
36 Washington State Ferries to rent, lease, or purchase vessels, related  
37 equipment, or terminal space for purposes of loading and unloading the  
38 ferry. Charges for the vessels, equipment, and space must be fair

1 market value taking into account the public benefit derived from the  
2 ferry service. A ferry district or subcontractor of that district that  
3 qualifies under this subsection is not subject to the restrictions of  
4 subsection (1) of this section, but is subject to:

5 (a) The terms of those collective bargaining agreements that it or  
6 its subcontractors negotiate with the exclusive bargaining  
7 representatives of its or its subcontractors' employees under chapter  
8 41.56 RCW or the National Labor Relations Act, as applicable;

9 (b) Unless otherwise prohibited by federal or state law, a  
10 requirement that the ferry district and any contract with its  
11 subcontractors, give preferential hiring to former employees of the  
12 department of transportation who separated from employment with the  
13 department because of termination of the ferry service by the state of  
14 Washington; and

15 (c) Unless otherwise prohibited by federal or state law, a  
16 requirement that the ferry district and any contract with its  
17 subcontractors, on any questions concerning representation of employees  
18 for collective bargaining purposes, may be determined by conducting a  
19 cross-check comparing an employee organization's membership records or  
20 bargaining authorization cards against the employment records of the  
21 employer.

22 (4) The department of transportation shall make its terminal, dock,  
23 and pier space available to private operators of passenger-only ferries  
24 if the space can be made available without limiting the operation of  
25 car ferries operated by the department. These private operators are  
26 not bound by the provisions of subsection (1) of this section. Charges  
27 for the equipment and space must be fair market value taking into  
28 account the public benefit derived from the passenger-only ferry  
29 service.

30 **Sec. 10.** RCW 47.64.150 and 1983 c 15 s 6 are each amended to read  
31 as follows:

32 An agreement with a ferry employee organization that is the  
33 exclusive representative of ferry employees in an appropriate unit may  
34 provide procedures for the consideration of ferry employee grievances  
35 and of disputes over the interpretation and application of agreements.  
36 Negotiated procedures may provide for binding arbitration of ferry  
37 employee grievances and of disputes over the interpretation and

1 application of existing agreements. An arbitrator's decision on a  
2 grievance shall not change or amend the terms, conditions, or  
3 applications of the collective bargaining agreement. The procedures  
4 shall provide for the invoking of arbitration only with the approval of  
5 the employee organization. The costs of arbitrators shall be shared  
6 equally by the parties.

7 Ferry system employees shall follow (~~either~~) the grievance  
8 procedures provided in a collective bargaining agreement, or if (~~no~~)  
9 such procedures are (~~so~~) not provided, shall submit the grievances to  
10 the (~~marine employees'~~) commission (~~as provided in RCW 47.64.280~~).

11 **Sec. 11.** RCW 41.58.060 and 1983 c 15 s 22 are each amended to read  
12 as follows:

13 For any matter concerning the state ferry system and employee  
14 relations, collective bargaining, or labor disputes or stoppages, the  
15 provisions of chapter 47.64 RCW and this chapter shall govern.  
16 However, if a conflict exists between the provisions of chapter 47.64  
17 RCW and this chapter, the provisions of chapter 47.64 RCW shall govern.

18 **Sec. 12.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and  
19 2010 c 1 s 1 are each reenacted and amended to read as follows:

20 (1) The provisions of this chapter do not apply to:

21 (a) The members of the legislature or to any employee of, or  
22 position in, the legislative branch of the state government including  
23 members, officers, and employees of the legislative council, joint  
24 legislative audit and review committee, statute law committee, and any  
25 interim committee of the legislature;

26 (b) The justices of the supreme court, judges of the court of  
27 appeals, judges of the superior courts or of the inferior courts, or to  
28 any employee of, or position in the judicial branch of state  
29 government;

30 (c) Officers, academic personnel, and employees of technical  
31 colleges;

32 (d) The officers of the Washington state patrol;

33 (e) Elective officers of the state;

34 (f) The chief executive officer of each agency;

35 (g) In the departments of employment security and social and health  
36 services, the director and the director's confidential secretary; in

1 all other departments, the executive head of which is an individual  
2 appointed by the governor, the director, his or her confidential  
3 secretary, and his or her statutory assistant directors;

4 (h) In the case of a multimember board, commission, or committee,  
5 whether the members thereof are elected, appointed by the governor or  
6 other authority, serve ex officio, or are otherwise chosen:

7 (i) All members of such boards, commissions, or committees;

8 (ii) If the members of the board, commission, or committee serve on  
9 a part-time basis and there is a statutory executive officer: The  
10 secretary of the board, commission, or committee; the chief executive  
11 officer of the board, commission, or committee; and the confidential  
12 secretary of the chief executive officer of the board, commission, or  
13 committee;

14 (iii) If the members of the board, commission, or committee serve  
15 on a full-time basis: The chief executive officer or administrative  
16 officer as designated by the board, commission, or committee; and a  
17 confidential secretary to the chair of the board, commission, or  
18 committee;

19 (iv) If all members of the board, commission, or committee serve ex  
20 officio: The chief executive officer; and the confidential secretary  
21 of such chief executive officer;

22 (i) The confidential secretaries and administrative assistants in  
23 the immediate offices of the elective officers of the state;

24 (j) Assistant attorneys general;

25 (k) Commissioned and enlisted personnel in the military service of  
26 the state;

27 (l) Inmate, student, part-time, or temporary employees, and part-  
28 time professional consultants, as defined by the Washington personnel  
29 resources board;

30 (m) The public printer or to any employees of or positions in the  
31 state printing plant;

32 (n) Officers and employees of the Washington state fruit  
33 commission;

34 (o) Officers and employees of the Washington apple commission;

35 (p) Officers and employees of the Washington state dairy products  
36 commission;

37 (q) Officers and employees of the Washington tree fruit research  
38 commission;

1 (r) Officers and employees of the Washington state beef commission;  
2 (s) Officers and employees of the Washington grain commission;  
3 (t) Officers and employees of any commission formed under chapter  
4 15.66 RCW;

5 (u) Officers and employees of agricultural commissions formed under  
6 chapter 15.65 RCW;

7 (v) Officers and employees of the nonprofit corporation formed  
8 under chapter 67.40 RCW;

9 (w) Executive assistants for personnel administration and labor  
10 relations in all state agencies employing such executive assistants  
11 including but not limited to all departments, offices, commissions,  
12 committees, boards, or other bodies subject to the provisions of this  
13 chapter and this subsection shall prevail over any provision of law  
14 inconsistent herewith unless specific exception is made in such law;

15 (x) In each agency with fifty or more employees: Deputy agency  
16 heads, assistant directors or division directors, and not more than  
17 three principal policy assistants who report directly to the agency  
18 head or deputy agency heads;

19 ~~((All employees of the marine employees' commission;~~  
20 ~~(z)))~~ Staff employed by the department of commerce to administer  
21 energy policy functions;

22 ~~((aa)))~~ (z) The manager of the energy facility site evaluation  
23 council;

24 ~~((bb)))~~ (aa) A maximum of ten staff employed by the department of  
25 commerce to administer innovation and policy functions, including the  
26 three principal policy assistants exempted under (x) of this  
27 subsection;

28 ~~((cc)))~~ (bb) Staff employed by Washington State University to  
29 administer energy education, applied research, and technology transfer  
30 programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

31 (2) The following classifications, positions, and employees of  
32 institutions of higher education and related boards are hereby exempted  
33 from coverage of this chapter:

34 (a) Members of the governing board of each institution of higher  
35 education and related boards, all presidents, vice presidents, and  
36 their confidential secretaries, administrative, and personal  
37 assistants; deans, directors, and chairs; academic personnel; and  
38 executive heads of major administrative or academic divisions employed

1 by institutions of higher education; principal assistants to executive  
2 heads of major administrative or academic divisions; other managerial  
3 or professional employees in an institution or related board having  
4 substantial responsibility for directing or controlling program  
5 operations and accountable for allocation of resources and program  
6 results, or for the formulation of institutional policy, or for  
7 carrying out personnel administration or labor relations functions,  
8 legislative relations, public information, development, senior computer  
9 systems and network programming, or internal audits and investigations;  
10 and any employee of a community college district whose place of work is  
11 one which is physically located outside the state of Washington and who  
12 is employed pursuant to RCW 28B.50.092 and assigned to an educational  
13 program operating outside of the state of Washington;

14 (b) The governing board of each institution, and related boards,  
15 may also exempt from this chapter classifications involving research  
16 activities, counseling of students, extension or continuing education  
17 activities, graphic arts or publications activities requiring  
18 prescribed academic preparation or special training as determined by  
19 the board: PROVIDED, That no nonacademic employee engaged in office,  
20 clerical, maintenance, or food and trade services may be exempted by  
21 the board under this provision;

22 (c) Printing craft employees in the department of printing at the  
23 University of Washington.

24 (3) In addition to the exemptions specifically provided by this  
25 chapter, the director of personnel may provide for further exemptions  
26 pursuant to the following procedures. The governor or other  
27 appropriate elected official may submit requests for exemption to the  
28 director of personnel stating the reasons for requesting such  
29 exemptions. The director of personnel shall hold a public hearing,  
30 after proper notice, on requests submitted pursuant to this subsection.  
31 If the director determines that the position for which exemption is  
32 requested is one involving substantial responsibility for the  
33 formulation of basic agency or executive policy or one involving  
34 directing and controlling program operations of an agency or a major  
35 administrative division thereof, the director of personnel shall grant  
36 the request and such determination shall be final as to any decision  
37 made before July 1, 1993. The total number of additional exemptions  
38 permitted under this subsection shall not exceed one percent of the

1 number of employees in the classified service not including employees  
2 of institutions of higher education and related boards for those  
3 agencies not directly under the authority of any elected public  
4 official other than the governor, and shall not exceed a total of  
5 twenty-five for all agencies under the authority of elected public  
6 officials other than the governor.

7 The salary and fringe benefits of all positions presently or  
8 hereafter exempted except for the chief executive officer of each  
9 agency, full-time members of boards and commissions, administrative  
10 assistants and confidential secretaries in the immediate office of an  
11 elected state official, and the personnel listed in subsections (1)(j)  
12 through (v) (~~and (y)~~) and (2) of this section, shall be determined by  
13 the director of personnel. Changes to the classification plan  
14 affecting exempt salaries must meet the same provisions for classified  
15 salary increases resulting from adjustments to the classification plan  
16 as outlined in RCW 41.06.152.

17 From February 18, 2009, through June 30, 2011, a salary or wage  
18 increase shall not be granted to any position exempt from  
19 classification under this chapter, except that a salary or wage  
20 increase may be granted to employees pursuant to collective bargaining  
21 agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW,  
22 or negotiated by the nonprofit corporation formed under chapter 67.40  
23 RCW, and except that increases may be granted for positions for which  
24 the employer has demonstrated difficulty retaining qualified employees  
25 if the following conditions are met:

- 26 (a) The salary increase can be paid within existing resources; and
- 27 (b) The salary increase will not adversely impact the provision of  
28 client services.

29 Any agency granting a salary increase from February 15, 2010,  
30 through June 30, 2011, to a position exempt from classification under  
31 this chapter shall submit a report to the fiscal committees of the  
32 legislature no later than July 31, 2011, detailing the positions for  
33 which salary increases were granted, the size of the increases, and the  
34 reasons for giving the increases.

35 Any person holding a classified position subject to the provisions  
36 of this chapter shall, when and if such position is subsequently  
37 exempted from the application of this chapter, be afforded the  
38 following rights: If such person previously held permanent status in

1 another classified position, such person shall have a right of  
2 reversion to the highest class of position previously held, or to a  
3 position of similar nature and salary.

4 Any classified employee having civil service status in a classified  
5 position who accepts an appointment in an exempt position shall have  
6 the right of reversion to the highest class of position previously  
7 held, or to a position of similar nature and salary.

8 A person occupying an exempt position who is terminated from the  
9 position for gross misconduct or malfeasance does not have the right of  
10 reversion to a classified position as provided for in this section.

11 From February 15, 2010, until June 30, 2011, no monetary  
12 performance-based awards or incentives may be granted by the director  
13 or employers to employees covered by rules adopted under this section.  
14 This subsection does not prohibit the payment of awards provided for in  
15 chapter 41.60 RCW.

16 NEW SECTION. **Sec. 13.** (1) The marine employees' commission is  
17 hereby abolished and its powers, duties, and functions are hereby  
18 transferred to the public employment relations commission.

19 (2)(a) All reports, documents, surveys, books, records, files,  
20 papers, or written material in the possession of the marine employees'  
21 commission shall be delivered to the custody of the public employment  
22 relations commission. All cabinets, furniture, office equipment, motor  
23 vehicles, and other tangible property employed by the marine employees'  
24 commission shall be made available to the public employment relations  
25 commission. All funds, credits, or other assets held by the marine  
26 employees' commission shall be assigned to the public employment  
27 relations commission.

28 (b) Any appropriations made to the marine employees' commission  
29 shall, on the effective date of this section, be transferred and  
30 credited to the public employment relations commission.

31 (c) If any question arises as to the transfer of any funds, books,  
32 documents, records, papers, files, equipment, or other tangible  
33 property used or held in the exercise of the powers and the performance  
34 of the duties and functions transferred, the director of financial  
35 management shall make a determination as to the proper allocation and  
36 certify the same to the state agencies concerned.

1 (3) All rules and all pending business before the marine employees'  
2 commission shall be continued and acted upon by the public employment  
3 relations commission. All existing contracts and obligations shall  
4 remain in full force and shall be performed by the public employment  
5 relations commission.

6 (4) The transfer of the powers, duties, and functions of the marine  
7 employees' commission shall not affect the validity of any act  
8 performed before the effective date of this section.

9 (5) If apportionments of budgeted funds are required because of the  
10 transfers directed by this section, the director of financial  
11 management shall certify the apportionments to the agencies affected,  
12 the state auditor, and the state treasurer. Each of these shall make  
13 the appropriate transfer and adjustments in funds and appropriation  
14 accounts and equipment records in accordance with the certification.

15 NEW SECTION. **Sec. 14.** The joint transportation committee shall  
16 conduct a study of the management structure at the Washington state  
17 ferries. The study results must make recommendations on changes to the  
18 organizational structure that will result in more efficient operations  
19 and a more balanced management organization structure scaled to the  
20 workforce. The study results must be presented to the transportation  
21 committees of the legislature by December 31, 2011.

22 NEW SECTION. **Sec. 15.** The following acts or parts of acts are  
23 each repealed:

24 (1) RCW 47.64.080 (Employee seniority rights) and 1984 c 7 s 341 &  
25 1961 c 13 s 47.64.080; and

26 (2) RCW 47.64.280 (Marine employees' commission) and 2010 c 283 s  
27 14, 2006 c 164 s 18, 1984 c 287 s 95, & 1983 c 15 s 19.

28 NEW SECTION. **Sec. 16.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and takes effect  
31 immediately."

**ADOPTED 4/11/11**

1        On page 1, line 1 of the title, after "Relating to" strike the  
2 remainder of the title and insert "providing tools for improving and  
3 measuring the performance of state ferry system management; amending  
4 RCW 47.64.120, 41.06.022, 47.64.011, 47.64.150, and 41.58.060;  
5 reenacting and amending RCW 47.64.090 and 41.06.070; adding new  
6 sections to chapter 47.64 RCW; creating new sections; repealing RCW  
7 47.64.080 and 47.64.280; and declaring an emergency."

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